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8 **IN THE UNITED STATES BANKRUPTCY COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

10 In re:	)	LEASE CASE NO. 15-51771
11 SANTA CRUZ BERRY FARMING	)	Jointly Administered with: 15-51772
12 COMPANY, LLC	)	Chapter 11
13 Debtor.	)	OPPOSITION TO FURTHER MOTION
14 Address: 116 Martinelli Street, Suite 8	)	REGARDING THE DEBTOR'S USE OF
15 _____	)	CASH COLLATERAL BEYOND THE USE
16 <input checked="" type="checkbox"/> Also Affects:	)	PERIOD
17 <input type="checkbox"/> Only Affects:	)	Date: September 24, 2015
18 CORRALITOS FARMS, LLC,	)	Time: 10:30 a.m.
19 Debtor.	)	Judge: Hon. M. Elaine Hammond
20 Address: 116 Martinelli Street, Suite 7	)	Place: United States Courthouse
_____	)	280 South First Street
	)	Courtroom 3070
	)	San Jose, CA 95113-3099

21 Secured Creditor, CALIFORNIA COASTAL RURAL DEVELOPMENT CORPORATION
22 ("Cal Coastal"), hereby respectfully submits its Opposition to Further Motion Regarding the Debtor's
23 Use of Cash Collateral Beyond the Use Period (the "Motion") filed by Debtor SANTA CRUZ BERRY
24 FARMING COMPANY, LLC ("SCBF" or "Debtor") on September 15, 2015 as ECF No. 145 in Case
25 No. 15-51771.

26 **I. INTRODUCTION**

27 SCBF has requested that this Court grant it an extension to use its cash collateral (the "Use
28 Period") from September 30, 2015 to November 30, 2015. Such an extension should not be granted

1 because SCBF has not satisfied its burden to establish that adequate protection will be provided to Cal
2 Coastal's and other secured creditors' cash collateral if it is granted the extension. Accordingly, Cal
3 Coastal does not agree to an extension of use period to November 30, 2015.

4 However, Cal Coastal would be agreeable to extending the use period to October 31, 2015 for
5 the reasons set forth below. In support of its position, Cal Coastal has filed the Declaration of Peter J.
6 Compton ("Decl of Compton"), the Declaration of Effie Anastassiou (the "Decl of Anastassiou") and
7 the Declaration of Katie Brandt (the "Decl of Brandt") concurrently herewith.

8 **II. LEGAL ARGUMENT**

9 **A. SCBF Has Not Established That Cal Coastal Will Be Adequately Protected If The** 10 **Use Period Is Extended To November 30, 2015**

11 SCBF acknowledges in its Motion that the Debtor has the burden to establish that the secured
12 parties' cash collateral will be adequately protected if it is allowed to continue operations until
13 November 30, 2015. It has not done so.

14 Cal Coastal's expert witness, Pete Compton, who recently visited SCBF's fields, has opined
15 that it is not likely that SCBF's strawberry fields will be profitable past October of 2015, and that there
16 is a high risk that losses will occur if harvest continues past October 31, 2015.¹

17 The basis for Mr. Compton's opinion is that growers in the area generally cease harvesting by
18 the end of October due to weather, labor shortages, and lack of customers in the area.² Mr. Compton is
19 of the opinion that based on his observation of the Debtor's fields, that strawberry plants in the
20 Debtor's fields will not bear fruit any longer than any other fields in the area, or have larger yields.
21 Based on Mr. Compton's observations, the Debtor's fields will be negatively affected by the shorter
22 days, cooler temperatures and rainfall that is normally encountered in the fall in the Watsonville and
23 Salinas areas, just like other fields in the same area. Mr. Compton also opines that the Debtor will also

27 ¹ See Decl of Compton, at ¶ 8.

28 ² See Decl of Compton, at ¶ 7.

1 have the same problems as other growers have with respect to procuring harvest labor and obtaining
2 customers to buy its fruit after October 31.³

3 SCBF's predictions of fall 2015 strawberry market prices to support its assessment of the
4 "value" of the collateral in the fields are also way off base. This is because the increase in plantings of
5 fall harvest fruit in Santa Maria and Oxnard (double the plantings of last year) have depressed market
6 prices in September of 2015, and there is no reason to believe that this trend will not continue for the
7 remainder of the fall of 2015. Mr. Compton has observed that the increase in plantings in the south is
8 due to the popularity of the Portola strawberry variety, which has recently proven to be successful for
9 fall harvest in Santa Maria and Oxnard.⁴

10 Mr. Compton also has opined that SCBF has not planted any varieties that are known to be
11 successful for fall harvest in the Watsonville and Salinas area. Mr. Compton also observed that no other
12 growers in the Watsonville or Salinas area have planted strawberries for fall harvest because of the
13 risks involved.⁵ The conditions are not the same in Watsonville and Salinas as in the more southern
14 areas.

15 The U.S.D.A. published Market News Reports also support that the market prices for
16 strawberries in September of 2015 are \$2.00 to \$7.00 lower than they were in 2014.⁶ SCBF has
17 produced no evidence to support its arguments that market prices in 2015 will be at the same high level
18 as they were last year. Without these high price levels, SCBF's predictions of the value of its collateral
19 collapses.

20 **B. Debtor's Prior Profit Projections Have Not Materialized**

21 SCBF's rosy projections about its past performance in 2015 are also misleading or incorrect.
22 During the first part of September, SCBF's average price per carton was \$10.48 per carton for
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25 ³ See Decl of Compton, at ¶ 8.

26 ⁴ See Decl of Compton, at ¶ 5.

27 ⁵ See Decl of Compton, at ¶ 6.

28 ⁶ See Decl of Brandt, at ¶¶ 4-5.

1 conventional fresh strawberries (\$8.53 after removing outliers),⁷ and not the \$12.00 per carton for
2 September projected in the Debtors' Budget.⁸

3 Nor has SCBF met its cash flow projections. The net cash flow of SCBF through the end of
4 August 31, 2015 is a negative amount of \$72,881.09.⁹ SCBF's August 31, 2015 Monthly Operating
5 Report (the "August Monthly Operating Report") shows a cash balance at the end of the month of
6 \$15,781. The August Monthly Operating Report also shows that SCBF's Actual Net Profit was only
7 \$404,236 in August of 2015, although SCBF had projected its profit would be \$703,352.¹⁰

8 Moreover, it appears that SCBF has been playing fast and loose with respect to its authority to
9 make payments to Fritz Koontz. SCBF paid \$18,787.70 to Fritz Koontz in August of 2015 without
10 apparent authority to do so.¹¹

11 **III. CONCLUSION**

12 In accordance with the foregoing, Cal Coastal does not agree to an extension of use of the cash
13 collateral to November 30, 2015. However, Cal Coastal would be agreeable to extending the use period
14 to October 31, 2015.

15 Respectfully Submitted,

16 Date: September 22, 2015

ANASTASSIOU & ASSOCIATES

17 By: /s/ Effie F. Anastassiou
18 Effie F. Anastassiou, Esq.,
19 Attorneys for Secured Creditor,
California Coastal Rural Development
Corporation

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23 ⁷ See Decl of Brandt, at ¶¶ 2-3.

24 ⁸ See ECF No. 106 in Case No. 15-51771, Cash Collateral Order, at Page 21.

25 ⁹ See Decl of Anastassiou, at ¶¶ 2-5.

26 ¹⁰ See Decl of Anastassiou, at ¶ 9.

27 ¹¹ See Decl of Anastassiou, at ¶¶ 7-8.